IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GEORGE PATTERSON, **Plaintiff**	:	**CIVIL ACTION**
v.	:	**NO. 10-996**
BERNARD AVERBEKE d/b/a Freedom Used Cars, Defendant	:	

O R D E R

AND NOW, this 20th day of January 2011, after consideration of the plaintiff's motion to amend the complaint (Document #26), the defendant's response thereto (Document #27), and the plaintiff's reply, it is hereby ORDERED that the motion is GRANTED.[1]

The Clerk of Court is directed to file the proposed first amended complaint attached to the motion as Exhibit A.

BY THE COURT:

/s/ *Lawrence F. Stengel*
LAWRENCE F. STENGEL, J.

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[1] When deciding whether to grant leave to amend under Rule 15(a)(2) of the Federal Rules of Civil Procedure, the court must consider whether the motion, if granted, is unjust because of undue delay or unfair prejudice. The rule provides that "[t]he court should freely give leave [to amend] when justice so requires." Fed. R. Civ. Pro. 15(a)(2). The Third Circuit Court of Appeals has repeatedly instructed, therefore, that Rule 15 should be applied in a manner that permits amendment. See Arthur v. Maersk, Inc., 434 F.3d 196, 212 (3d Cir. 2006).

Here, the defendant's biggest concern is the amended complaint's change in Section IX, where the plaintiff substituted one section of the Pennsylvania statute dealing with unlawful discriminatory practices for another. The original complaint alleged a violation of 43 P.S. § 955(h) which deals with discrimination in housing accommodation or commercial property, areas which have had nothing to do with this case. On the other hand, the amended complaint alleges a violation of 43 P.S. § 955(i) which deals with discrimination in "the accommodations, advantages, facilities, or privileges of public accommodation, resort, or amusement." I am not persuaded by the defendant's argument that this amendment will unfairly prejudice him. The entire thrust of this case including discovery has dealt with the alleged discrimination in the sale of a used car, more appropriately contemplated by 43 P.S. § 955(i). There has been no change in the plaintiff's theory of the case which might prompt additional discovery. Given the guidance of the Third Circuit and the explicit language of Rule 15(a)(2), I will grant the plaintiff's motion to amend his complaint.